

Middle Temple 7/1/1906

# SPEECHES

DELIVERED AT

## A BANQUET

GIVEN BY

Members of the Bench and Bar of England,

TO

Representatives of the Bench and Bar of the  
United States of America.

JULY 27th, 1900.



---

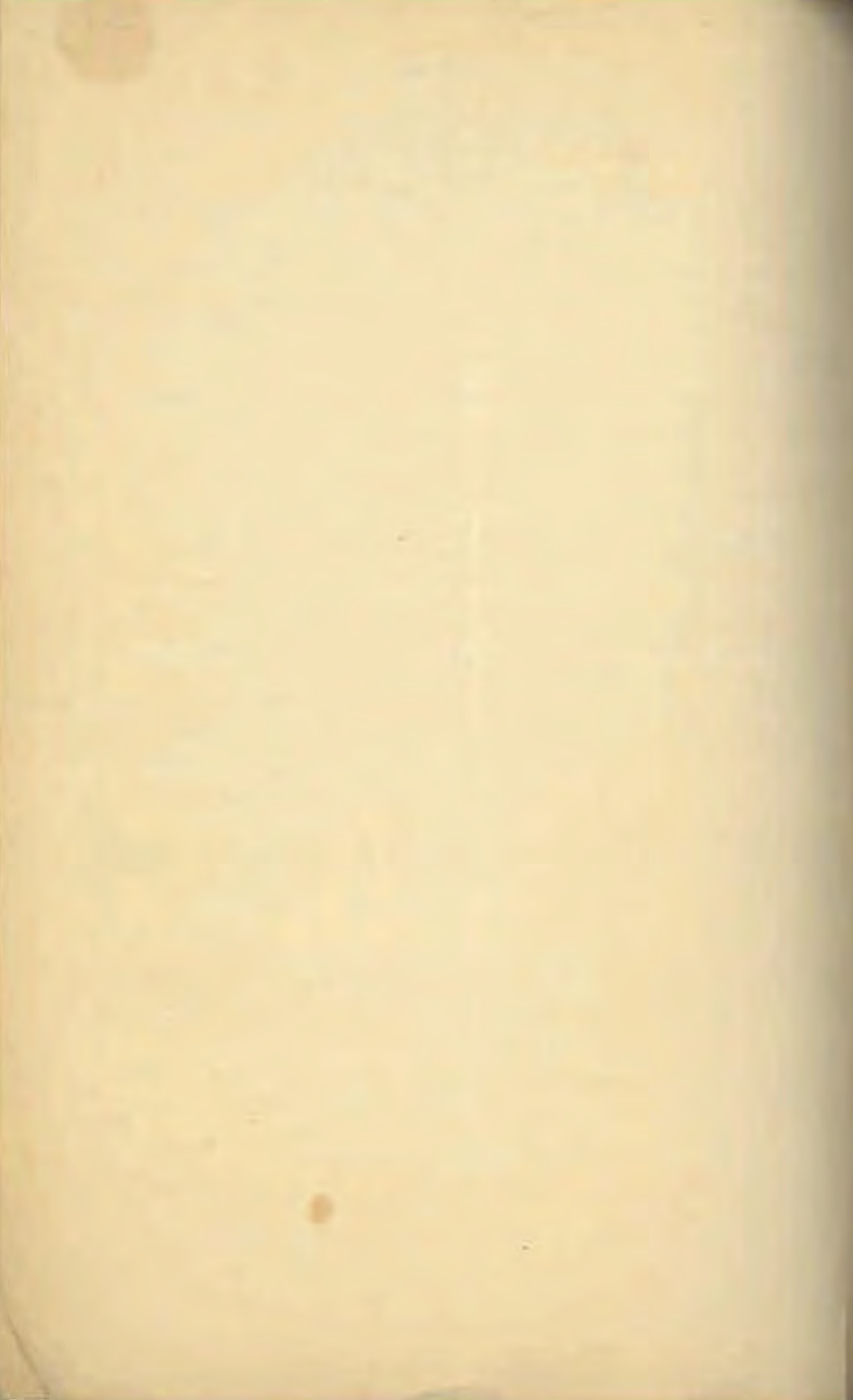
Printed by

HICKS, WILKINSON & SEARS,

4, DORSET BUILDINGS, SALISBURY COURT, FLEET STREET, LONDON.

---

1900.



The occasion upon which the following speeches were delivered was a banquet given by members of the Bench and Bar of England to representatives of the Bench and Bar of the United States of America in the Hall of the Middle Temple, under the Presidency of the RIGHT HON. THE EARL OF HALSBURY, Lord High Chancellor, on Friday, July 27th, 1900, at 7.30 p.m.

The company present numbered about 260, and the following is a list of the guests:—

MR. R. B. D. AGLAND.	RT. HON. LORD BRAMPTON.
MR. CHARLES B. ALEXANDER (New York).	MR. H. D. BONSEY.
MR. J. G. ALEXANDER.	MR. F. A. BOSANQUET, Q.C. (Common Serjeant).
MR. W. AMBROSE, Q.C.	MR. EDWARD BOYLE, Q.C.
MR. G. R. ASKWITH.	MR. R. M. BRAY, Q.C.
MR. J. M. ASTBURY, Q.C.	MR. A. M. BREMNER.
MR. H. TINDAL ATKINSON.	MR. C. E. BRETHERTON.
THE ATTORNEY GENERAL, SIR R. FINLAY, Q.C., M.P.	MR. JOHN W. BROCK (Philadelphia).
MR. ISAAC BADCOCK, Q.C.	HON. MR. JUSTICE BUCKLEY.
HIS HONOUR JUDGE BAGSHAW.	MR. S. O. BUCKMASTER.
MR. A. W. BAINTON.	MR. PRESCOTT HALL BUTLER (New York).
HON. SIMEON E. BALDWIN (Associate Judge, Supreme Court of Errors, Connecticut).	MR. JAMES BYRNE (New York).
MR. J. ELDON BANKES.	HON. MR. JUSTICE BYRNE.
HON. MR. JUSTICE GORELL BARNES.	MR. MICHAEL H. CARDOZO (New York).
MR. J. ARTHUR BARRATT (New York and English Bar).	MR. JOHN R. CARTER (American Embassy).
MR. J. PAWLEY BATE.	MR. EUGENE P. CARVER (Boston).
MR. J. W. BATTEN, Q.C.	MR. T. G. CARVER, Q.C.
HON. JAMES M. BECK (Assistant Attorney General of the United States, Philadelphia).	MR. R. S. B. HAMMOND CHAMBERS, Q.C.
MR. A. BEDDALL.	SIR W. CHARLEY, Q.C.
MR. J. R. BENNETT (New York).	MR. JOSEPH H. CHOATE (American Embassy).
HON. MR. JUSTICE BIGHAM.	HON. MR. JUSTICE CHUBB (New South Wales).
MR. CORTLANDT F. BISHOP (New York).	MR. O. LEIGH CLARE, M.P.
HON. EDWARD BLAKE, Q.C., M.P. (Canada).	MR. E. PERCIVAL CLARKE.
	SIR EDWARD CLARKE, Q.C.
	MR. ARTHUR COHEN, Q.C.

- HON. GILBERT COLERIDGE.  
 RIGHT HON. LORD COLERIDGE, Q.C.  
 MR. H. A. DE COLYAR.  
 RIGHT HON. LORD JUSTICE COLLINS.  
 MR. TEMPLE COOKE.  
 RIGHT HON. SIR RICHARD COUCH.  
 MR. J. C. LEWIS COWARD.  
 MR. E. W. SINCLAIR COX.  
 MR. R. NEWTON CRANE (St. Louis  
 and English Bar).  
 MR. C. A. CRIPPS, Q.C., M.P.  
 MR. JOHN CUTLER, Q.C.  
 MR. W. BAYARD CUTTING (American  
 Embassy).  
 HON. MR. JUSTICE DARLING.  
 RIGHT HON. LORD DAVEY.  
 MR. W. REES DAVIES (A.G.  
 Bahamas).  
 MR. R. BRAMWELL DAVIS, Q.C.  
 MR. A. H. DAVIS (Atlanta, Georgia).  
 THE DEAN OF FACULTY OF ADVOCATES  
 (Scotland).  
 MR. H. BARGRAVE DEANE, Q.C.  
 HON. MR. JUSTICE DENNISTON (New  
 Zealand).  
 HON. CHAUNCEY DEPEW (New York,  
 N.Y., Senator).  
 MR. H. F. DICKENS, Q.C.  
 MR. JOHN DIGBY.  
 SIR KENELM DIGBY.  
 MR. ADVOCATE DORNHORST (Ceylon).  
 MR. WILLIAM A. DUER (New York).  
 MR. H. E. DUKE, Q.C.  
 MR. J. BRADLEY DYNE.  
 MR. C. SWINFEN EADY, Q.C.  
 MR. LEWIS EDMUNDS, Q.C.  
 MR. ROBERT ELLETT (President of  
 Incorporated Law Society).  
 MR. H. T. EVE, Q.C.  
 MR. A. LEO EVERETT (New York,  
 N.Y.).  
 MR. J. W. FEARNSIDES.  
 MR. W. B. FERGUSON, Q.C.  
 MR. T. LITTLEJOHN FIELD.  
 MR. FREDERICK P. FISH (Boston,  
 Mass.).  
 MR. J. ALDERSON FOOTE, Q.C.  
 MR. FRANK L. FREEMAN (Washington).  
 MR. L. H. DE FREISE (New York).  
 SIR FORREST FULTON, Q.C. (Recorder  
 of London).  
 MR. C. F. GILL, Q.C.  
 MR. W. B. GIVEN.  
 HON. W. W. GOODRICH (Presiding  
 Justice of Appellate Division  
 New York Supreme Court).  
 MR. FRANK GOSNELL (Baltimore).  
 MR. W. W. GRANTHAM.  
 MR. H. D. GREENE, Q.C., M.P.  
 MR. P. S. GREGORY.  
 HON. CHARLES H. GROSVENOR (M.C.,  
 Ohio).  
 MR. R. B. HALDANE, Q.C., M.P.  
 HON. MR. JUSTICE HALL (Queen's  
 Bench, Quebec).  
 MR. W. F. HAMILTON, Q.C.  
 MR. W. ENGLISH HARRISON, Q.C.  
 MR. G. HENDERSON.  
 MR. J. B. HENDRY (Philadelphia).  
 RT. HON. LORD JAMES OF HEREFORD.  
 MR. GRAY HILL.  
 MR. G. F. HOHLER.  
 MR. C. H. HOPWOOD, Q.C.  
 MR. A. A. HUDSON.  
 MR. T. R. HUGHES, Q.C.  
 MR. W. E. HUME-WILLIAMS, Q.C.  
 MR. GEORGE HUMPHREYS.  
 MR. A. R. INGPEN, Q.C.  
 MR. J. V. IRWIN (New York).  
 HON. ISAAC ISAACS (late A.G. Vic-  
 toria).  
 MR. RUFUS ISAACS, Q.C.  
 MR. JAMES JARDINE, Q.C.  
 MR. ERNEST JELF.  
 MR. STEPHEN R. JONES (Boston,  
 Mass.).  
 MR. M. INGLE JOYCE.  
 SIR W. W. KARSLAKE, Q.C.  
 MR. EDWARD Q. KEASBEY (New  
 Jersey).  
 HON. MR. JUSTICE KENNEDY.  
 MR. G. G. KENNEDY.  
 MR. T. R. KEMP, Q.C. (Treasurer of  
 the Middle Temple).  
 MR. D. M. KERLY.  
 MR. J. PARKER KIRLIN (New York).

- HON. MR. JUSTICE KING (Supreme Court of Canada).  
 MR. CHARLES H. KNOX (New York).  
 MR. F. LAING, Q.C.  
 MR. J. M. LANAHAN (Baltimore, Maryland).  
 HON. MR. JUSTICE LAWRENCE.  
 MR. P. OGDEN LAWRENCE, Q.C.  
 MR. C. P. LAYARD (A.G., Ceylon).  
 MR. G. F. LEFTWICH (Mississippi).  
 HON. J. W. LEONARD.  
 MR. E. L. LEVETT, Q.C.  
 SIR GEORGE LEWIS.  
 MR. J. E. LILLEY.  
 RIGHT HON. LORD LINDLEY.  
 MR. W. A. LINDSAY, Q.C.  
 MR. R. D. M. LITTLER, Q.C., C.B.  
 MR. J. M. LLOYD.  
 THE LORD ADVOCATE (Scotland).  
 THE LORD CHANCELLOR.  
 THE LORD CHIEF JUSTICE OF IRELAND.  
 MR. A. K. LOYD, Q.C., M.P.  
 SIR F. LUSHINGTON.  
 MR. H. W. LUSH WILSON, Q.C.  
 HON. MR. JUSTICE LUMB (Jamaica).  
 HON. J. H. LUMPKIN (Assoc. Judge Supreme Court of Atlanta, Georgia).  
 MASTER MACDONELL, C.B.  
 MR. M. MUIR MACKENZIE.  
 MR. A. MACMORRAN, Q.C.  
 HON. E. C. MACNAGHTEN, Q.C.  
 MR. HENRY MANISTY (ex-President of Incorporated Law Society).  
 MR. CRAIG A. MARSH (New Jersey).  
 MR. E. MARSHALL-HALL, Q.C.  
 HIS HONOUR SIR A. G. MARTEN, Q.C.  
 MR. FRED MARTIN (Quebec).  
 THE MASTER OF THE ROLLS.  
 THE MASTER OF THE TEMPLE.  
 HON. MR. JUSTICE MATHEW.  
 MR. ALFRED MATTEI.  
 MR. CHIEF JUSTICE MATTHESON (Rhode Island).  
 MR. R. A. MCCALL, Q.C.  
 LORD McLAREN (Scotland).  
 MR. R. F. MCSWINNEY.  
 MR. C. W. MEAD.  
 MR. CHARLES S. MEDD.  
 MASTER MELLOR.  
 MR. N. MICKLEM, Q.C.  
 MR. FREDERICK B. MILES (Philadelphia).  
 MR. N. DUBOIS MILLER (Philadelphia).  
 MR. J. FLETCHER MOULTON, Q.C., M.P.  
 MR. J. MULLIGAN, Q.C.  
 MR. ARTHUR O'CONNOR, Q.C., M.P.  
 THE OFFICIAL SOLICITOR TO THE SUPREME COURT (W. H. WINTERBOTHAM, Esq.)  
 HIS HONOUR JUDGE PATERSON.  
 MR. J. HORNE PAYNE, Q.C.  
 MR. T. E. PEARSALL (New York).  
 HON. MR. JUSTICE PHILLIMORE, BART.  
 MR. G. G. PHILLIMORE.  
 MR. W. PICKFORD, Q.C.  
 MR. F. T. PIGGOTT (Procureur General, Mauritius).  
 MR. EDGAR ALLAN POE (Baltimore).  
 SIR HARRY POLAND, Q.C.  
 MR. ERNEST M. POLLOCK.  
 MR. SAMUEL POPE, Q.C.  
 SIR W. RATTIGAN.  
 MR. FRANCIS RAWLE (Philadelphia).  
 MR. W. D. RAWLINS, Q.C.  
 MR. J. F. P. RAWLINSON, Q.C.  
 MR. W. C. RENSHAW, Q.C.  
 MR. A. G. RICKARDS, Q.C.  
 HON. ALBERT RITCHIE (Supreme Court, Baltimore).  
 RIGHT HON. LORD ROBERTSON.  
 SIR J. F. ROTTON, Q.C.  
 MR. A. W. ROWDEN, Q.C.  
 MR. D. M. ROWNTREE (Atlanta, Georgia).  
 MR. C. A. RUSSELL, Q.C.  
 MR. CLAVELL SALTER.  
 MR. C. C. SCOTT.  
 HON. FRANCIS M. SCOTT (Supreme Court, New York, N.Y.).  
 MR. LESLIE SCOTT.  
 SIR JOHN SCOTT, K.C.M.G.  
 MR. T. E. SCRUTTON.  
 RT. HON. LORD JUSTICE A. L. SMITH.

- SIR HENRY SHIPPARD, K.C.M.G. (late of Supreme Court of Cape Colony).  
 MR. R. COWPER SMITH, Q.C. (Quebec).  
 MR. R. HORTON SMITH, Q.C.  
 MR. VERNON R. SMITH, Q.C.  
 HIS HONOUR JUDGE SNAGGE.  
 MR. SIMON STERNE (New York, N.Y.).  
 MR. SIMON H. STERN (New York).  
 MR. CHARLES F. STEARNS (Providence, R.I.).  
 HON. MR. JUSTICE STIRLING.  
 DR. C. A. STODDARD (New York).  
 THE SOLICITOR GENERAL, SIR EDWARD CARSON, Q.C., M.P.  
 HON. SIR ARTHUR STRACHEY (Chief Justice N.W.P., India).  
 MR. J. ANDREW STRAHAN.  
 MR. HENRY SUTTON.  
 MR. CHARLES SWEET.  
 MR. H. S. THEOBALD, Q.C.  
 MR. W. B. THORPE.  
 MR. HENRY TERRELL, Q.C.  
 MR. SETH S. TERRY (New York).  
 MR. E. M. UNDERDOWN, Q.C.  
 MR. ARTHUR UNDERHILL.  
 THE UNITED STATES AMBASSADOR, (HON. JOSEPH H. CHOATE, New York, N.Y.).  
 MR. ISAAC UNTERMYER (New York).  
 MR. SAMUEL UNTERMYER (New York).  
 MR. W. H. UPJOHN, Q.C.  
 HON. JAMES M. VARNUM (ex-Suito-gate, New York County).  
 MR. J. F. WAGGETT.  
 MR. J. W. WALDRON (Under Treasurer of the Middle Temple).  
 MR. J. DOUGLAS WALKER, Q.C.  
 MR. GEORGE WALLACE.  
 MR. ROGER WALLACE, Q.C.  
 MR. W. M. WALTERS.  
 MR. JOSEPH WALTON, Q.C.  
 MR. C. M. WARMINGTON, Q.C.  
 MR. JOSEPH WARREN (New York).  
 MR. T. ROLLS WARRINGTON, Q.C.  
 MR. DAVID T. WATSON (Pittsburg, Pennsylvania).  
 PROF. J. WESTLAKE, Q.C.  
 HON. GEORGE PEABODY WETMORE (Senator, U.S.).  
 MR. HENRY WHITE (American Embassy).  
 MR. J. BELL WHITE.  
 MR. GEORGE WHITELOCK (Baltimore).  
 MR. J. SHIRESS WILL, Q.C.  
 MR. B. FRANCIS WILLIAMS, Q.C.  
 MR. CYPRIAN WILLIAMS.  
 MR. HENRY M. WILLIAMS.  
 MR. FLOYD B. WILSON (New York).  
 HON. JAMES M. WOOLWORTH (Omaha, Nebraska).  
 MR. J. G. WITT, Q.C.  
 HON. MR. JUSTICE WRIGHT.  
 HON. MR. JUSTICE WURTELE (Queen's Bench, Quebec).  
 MR. HUGO YOUNG, Q.C.  
 MR. ROBERT YOUNGER, Q.C.

The following gentlemen, amongst others, were unavoidably prevented from attending:—HON. JOHN CADWALADER (New York); HON. JAMES C. CARTER (New York); HON. JOHN DALZELL (M.C., U.S.); HON. J. C. BANCROFT DAVIS (Supreme Court, U.S.); MR. JAMES FOX; HON. MR. JUSTICE COZENS HARDY; RIGHT HON. LORD HOBHOUSE; RIGHT HON. LORD JUSTICE HOLMES (Ireland); MR. A. R. JELF, Q.C.; RIGHT HON. SIR FRANCIS JEUNE, K.C.B.; HON. MR. JUSTICE KEKEWICH; MR. MONTAGUE LUSH; MR. R. H. B. MARSHAM; HON. L. E. MCCOMAS (Senator, U.S., Maryland); MR. T. MILVAIN, Q.C.; RIGHT HON. LORD RUSSELL OF KILLOWEN (Lord Chief Justice of England); SIR W. J. SMITH (Chief Justice, British Guiana); RIGHT HON. SIR HENRY STRONG (Chief Justice of Canada); RIGHT HON. SIR HENRY DE VILLIERS, K.C.M.G. (Chief Justice of Cape Colony); and RIGHT HON. LORD JUSTICE VAUGHAN WILLIAMS.

Grace was sung before and after dinner by the choristers of the Temple Church.

The toast of "**The Queen**" was then proposed by

**His Excellency the Ambassador of the United States** in the following words: My Lord Chancellor, my Lords and Gentlemen, I do not rise for the purpose of making a speech; that, in view of the duty assigned to me, would be to trample upon immemorial custom and to override the British Constitution. It has been made my pleasant duty and privilege to propose to this company the sentiment which always comes first in place and first in honour in every English company, and must be most sacredly observed in this ancient Hall which, for centuries, has been one of the most celebrated nurseries of the law, and in the presence of all these Her Majesty's judges and counsel, who, from her, as the fountain of justice and honour, derive all their power and authority to administer justice to and maintain the rights of the individual and to vindicate the honour and the majesty of the State. These walls have looked down upon many a festive scene, upon many a grand display of hospitality; but I doubt if they ever witnessed a more graceful and generous occasion than this when the Bench and the Bar of England, represented by all that is noblest and best, extend the right hand of fellowship to their professional brethren across the Atlantic. You may think that we have been a little modest and coy in accepting your cordial invitation. When you reflect that the Bar of the United States consists of 90,000 members and that everyone of them is a Barrister, and that we have 400 judges of the first rank among us to administer justice, you may feel, perhaps, that this little handful, this mere remnant that is gathered here to-night to enjoy your hospitality, is but a very condensed representation of the body whom it does affect to represent. But I assure you, gentlemen, that wherever Courts sit or lawyers gather, between the Atlantic and the Pacific, it will be accepted by the whole of the Bench and Bar of the United States, whatever their numbers and their offices may be, as a magnificent overture of permanent friendship and goodwill.

Wherever the Common Law is expounded, wherever those splendid principles of Equity, my Lord Chancellor, which you and your predecessors in your noble office have administered for so many ages, wherever those principles are enforced, we do constitute one Profession, one brotherhood. We are all brothers, we are all lawyers—and we need not to-night except even the judges, who on this occasion, for this one night, at least, and I think I saw high judicial authority for this statement in the morning papers, must be considered, on festive occasions, at least, to be included in the same category. Well, this noble Profession of ours is especially concerned, I think, in those great principles and objects of government of which Her Majesty throughout her long and splendid reign has been the defender and the fit representative ; first of all, which embraces all the rest, justice, to whose service our great Profession is devoted ; and then loyalty to all that is right and true ; and next the love of liberty protected by law, the preservation of order and the advance of civilization. In America our fathers framed a State without King or Queen, which, for them and their children has served us so well for the maintenance and development of those same great principles and objects of government ; and they gave us a Sovereign which we call our Country, and for which hundreds of thousands of Americans have cheerfully shed their blood and yielded up their lives. We owe to this Sovereign of ours the same unqualified and absolute allegiance that you owe to yours. But we believe that by different paths and under different forms of government we are pursuing the same objects and reaching the same ends, and we think, we know, that your illustrious Sovereign has long been a steadfast and faithful friend of our Sovereign. And I do most cordially endorse what Lord Pauncefoot said a few days ago at Harvard, that in America she is regarded with hardly less reverence and admiration than she is in the realms over which she herself presides. We honour her for her venerable years, rich in all that should accompany old age, for her exalted character, for her fidelity to every duty, for her ceaseless activity in the service of her subjects, for the ardour of her patriotism and her constant and life-long efforts to elevate the great nation over whom she

was born to reign. And so, thanking you for your magnificent hospitality, we most cordially join you in proposing and drinking this time honoured sentiment, "The Queen."

The toast having been duly honoured by the company upstanding, the toast of "**The President of the United States**" was then proposed by

**The Lord Chancellor** as follows: Your Excellency, my Lords and Gentlemen, after the very eloquent and interesting speech we have just listened to it would be, I think, improper to delay for a moment before we recognize in appropriate fashion the kindness, as well as the wisdom, of the words which His Excellency has uttered. I suppose it is one of the privileges of old age to remember that there may be wisdom and there may be policy in things with which we are not ourselves familiar; and when I heard the eloquent words of His Excellency which pointed out how great are our privileges in this country, I could not help thinking that although he has not the old age which gives me the privilege, he has prematurely arrived at that wisdom to which I just now referred. My Lords and Gentlemen, it is impossible for us, I suppose, trained as we have been, to think how we should be without our Queen; but, on the other hand, it has been ordained by those who have founded that great country and its constitution, of which our distinguished guest is the representative, that they have found appropriate to themselves a system by which from time to time they can select the great and distinguished men among them; and in that long roll of fame by which they have distinguished their countrymen from time to time in placing them at the head of the State, I suppose there is an advantage which perhaps we are not absolutely capable of understanding, of being able from time to time to select their most prominent citizens and to show what their countrymen think of the men who have best deserved of their country. It is enough for us to say that they have exhibited by their course of selection that they are able to point to a very long line of distinguished persons who from time to time have justly been honoured by their countrymen as standing forth in defence and in vindication

of those great principles which His Excellency has so well expounded. It is enough for us to say, at all events, to-night, that we are desirous of reciprocating as heartily as it is capable of being done the kindly sentiments he has expressed towards us and our institutions, and to show there is no person, no high official, no great and distinguished person among them whom they have delighted to honour whom we will not accept as their proper representative; and in that spirit I propose to you the health of "The President of the United States."

This toast having been honoured in the same way as the previous one, the toast of "**The Bench and Bar of the United States,**" was proposed by

**The Lord Chancellor** in the following words:—Your Excellency, my Lords and Gentlemen, it is my very great pleasure to have to propose to you the toast of "The Bench and Bar of the United States." And my first words, I think, ought to be those of hearty welcome to them. I think I ought as a second word to express the regret I am sure you will all of you share, that my distinguished friend the Lord Chief Justice of England is unable to be present with you to-night. I have received a letter from him, the effect of which is that he is unable to leave his room, or indeed for a day or two his bed, and although he hopes to be able shortly to resume his duties, it is to him a great, a very great disappointment not to be able to attend the banquet in which he took such a deep interest.\* And I am sure when I say it is a great disappointment to him, I need not say how great a disappointment it is to all of us. But now to turn to the toast which it is my privilege to propose to you. I think a great deal of what I might have said, although no one could have said it so well as himself, has been anticipated by my excellent friend in proposing Her Majesty's health. We are, as he said, all lawyers, at least the most of us, and if "one touch of Nature makes the whole world kin," I think a little touch of the law gives us all a unity of sentiment and feeling which we recognise at once. And I do not

\*The illness of the Lord Chief Justice terminated fatally, to the deep sorrow of the profession, on August 10th, 1900.

wonder at it. I think a great poet of antiquity has described his hero, the type of wisdom, as the man who has seen the manners and ways of many cities, and of many men; and I suppose there is no profession in the world which gives us so many views of human life and such a familiarity with its incidents; and I believe on the whole—I admit as I am reminded by His Excellency there are 90,000 barristers on the other side of the Atlantic I won't answer for them all—but, speaking generally and as a rule, I believe that lawyers, notwithstanding the sort of feeling there sometimes is against a lawyer because he is a lawyer, may well stand in comparison with every one of their fellow citizens in the way in which they do their duty irrespective of their own personal interests. There has been, I know, a feeling amounting to a sneer sometimes about political lawyers. Well, I think if we were to pass in review those men who in public life have sacrificed high position, interests, all that forms the ambition of the individual, it would not be found that the lawyers have been the least self-sacrificing part of the community. No doubt it is true to say that the lawyers take decided views about right and wrong, and I do not claim for them that they are naturally very much better than other men. I suppose we all have our defects, at least, even the youngest of us will admit that; but I think that what distinguishes the great Profession to which we belong from others is that self-conceit, and the feeling that a person must be right is more common among other men than among lawyers. And the reason is this, that he has learned to look at two sides of the question and not only at one. And therefore I think that a lawyer, if he does betray his trust, and does what he ought not to do, is one of those people who sin against right and knowledge, because that which misleads many men is a confused notion of right and wrong. Now, from the earliest period of his training the lawyer is taught to take definite views of what is right, and what is wrong, and any man who has practised much will recognise the fact that if there is a dirty technicality made use of, it is the layman and not the lawyer who suggests it. But, after all, this is an eulogium on the Profession to which we all belong, whereas I rose to propose the health of

our distinguished friends, some of those 90,000 who are here, and I have no doubt most admirable representatives, who are our guests to-night. I cannot help thinking that it is quite true to say that the common studies—it is not only the *cadem sentire de republica* but it is the common studies, the sort of notion that you must regard, as I said, both sides and look at all sides of the question—do bring men together more than any other pursuit in life; and I believe modern experience has confirmed my view. There have been times when, I regret to say, there has been a feeling, I am afraid I might almost say, of unfriendliness between us and our own kith and kin, our own race and blood on the other side of the Atlantic. I hope and believe the days of the indulgence in that feeling have passed away. When I think of the occasions on which they have met together sometimes for one purpose, and sometimes for another, when I know that on recent occasions they have met, English judges and American judges, English counsel and American counsel, and, I believe, not the most recent but some of the most favourable occasions were when they met to consider Delagoa Bay and Venezuela, I feel that these are things which at other times and with other spirit might have wrapped the world in flame and blood. They have been settled without either the one or the other. It is one of the triumphs of civilization that men will submit their supposed rights, not necessarily to the arbitrament of the sword, but to that which shall decide independently of prejudice or national considerations the truth and the right, what they believe to be an impartial tribunal. You might—if that were considered a possible practical thing—you might establish that reign of peace which prophet and poet have looked forward to for centuries in vain. When I heard His Excellency speak of what was the proper function of those whose duty it was to administer justice, I could not help being reminded of what one of our own poets has put into the mouth of a great French statesman:

“I found France rent asunder, sloth in the Mart and schism within the Temple,

“The rich were despots and the poor banditti,

“Brawls festering to rebellion and weak laws

“Rotting with rust in antique sheaths.

"I have recreated France, and from the ashes of the old feudal and decrepit carcase,

"Civilization on her luminous wings soars, Phoenix-like, to Heaven.

"What was my art? Genius some say, some fortune, witchcraft some:

"Not so, my art was justice."

The administration and development of that which is our recognition of other men's rights, and the determination that right shall be done is the great function of those whom I see around me now, some of whom have come across the Atlantic, and whom we are so proud to welcome here. Now, your Excellency, in speaking of this evening's function as one I have described, it would be invidious to speak of those who at the present time are administering the law. It would be easy indeed to speak of that long line of distinguished judges on the other side of the Atlantic, who in the comparatively short time since they have made their country great have also made it famous for the jurisprudence they have administered. It would be easy to speak of Story, and Marshall, and Kent, and others whose names are too numerous to enumerate; least of all, I think, would it be right to speak of those who are present. It is one of those things, I suppose, that delightful incense of applause, which is the last thing that a living judge ought to desire to get. I remember very well, more years ago than I care to think of, that a most distinguished judge in this country, Mr. Justice Cresswell, made some observations to a jury, which were received with a sort of murmur of applause from the jury-box; upon which he stopped and he said, "Gentlemen, you will forgive me. I dare say you mean it very kindly, but, believe me, the administration of justice is in great danger when the applause in Court becomes grateful to a judge's ear." That is the principle, I take it, which should guide a judge, and should guide those to whom the judges, and I speak now from some experience, are deeply indebted, I mean the advocates who appear before them, that which should be the charter of their existence, and that which, regardless of popular applause, or regardless of popular denunciation should be that which another poet has described:

"The truth, the right, aye, though each word be fire."

That has been, I believe, for many centuries the charter of the existence of English judges, and I believe their American brethren are not behind them in their desire and their determination to do the right, and their American brethren of the Bar are not behind them either in the ability or in the determination to aid and assist in the true administration of justice. Gentlemen, I am afraid I have been misled, I was going to say by my excellent friend beside me, into detaining you a little longer than I had otherwise intended; but I beg to propose to you "The Bench and Bar of the United States," and I call upon the Hon. Simeon E. Baldwin, Judge of the Supreme Court of Errors, Connecticut, and the Hon. James H. Beck, Assistant Attorney-General of the United States, to respond for the Bench and the Bar of the United States.

The toast having been duly honoured,

**The Hon. Simeon E. Baldwin** responded as follows: My Lord Chancellor, your Excellency, my Lords and Gentlemen, the cordial words of greeting that have just been uttered by your lordship confirm the feeling, which I know every American here must have had, as he entered this room this evening, that we are not received here wholly by the right of the stranger. We regret that no member of the Supreme Court of the United States found it possible to be of this company, and so that the welcome extended to us by the highest judicial authority in Great Britain cannot be acknowledged by the highest judicial authority of the United States. And yet, in a certain sense, it is even more appropriate that the response on this occasion in this place should be made by one representing a Court of last resort of one of the five and forty separate sovereignties whose people have joined them together for certain purposes as the United States. The great tie between the lawyers of England and America, what binds us, lawyers and judges, into one, for judges are the elder brothers of the Bar, is the Common Law of England; and the United States, as the United States, have no Common Law. The jurisdiction in particular of the Supreme Court of the United States, we all know, is especially concerned with the relations of States

or of the individual to other States or to the United States. It is a new branch of jurisprudence, one might perhaps say, a narrow branch, dependent on the construction of our written constitutions of government, and in which the ordinary man in the common affairs of life has little concern. But what does concern him, what has bound our people together above all else, what has made our union possible and keeps it secure, is the one general underlying system of jurisprudence which we inherited from our ancestors as Englishmen — inherited from our ancestors and your ancestors. And this unity of the Common Law stretching across the Continent from Maine to California, it is the special office of the Courts of last resort in the several States to uphold. And because it has been so long upheld, because it has thus permeated and inspired American Institutions, our States have been welded together by ties that no written constitution could ever weave. For more than two centuries Westminster Hall was the Mecca of the American lawyer when he crossed the sea. Westminster Hall in recent years has lost its judicial character, but as he enters these venerable walls he can still have something of the feeling of coming home — of coming home, for our legal ancestry and yours are one. They are Coke and Hale and Mansfield and Blackstone, and the whole great family of English lawyers for every century preceding this. Our legal ancestry? Is it not, as was suggested by my Lord Chancellor, is it not in a very true sense the real ancestry of every one of us? That which makes a man what he is; that which makes his manhood of any service to the community; that which gives him his place in the world and helps him to fulfil that plan of life which a great thinker said is “for every man a plan of God for him.” This, I say, is for us, our knowledge of the Common Law; and that knowledge was inherited by us of America directly from men who came out from the Temple to the wilds and woods of Massachusetts Bay. The first Governor of the first English colony in America which elected a governor, John Winthrop, was a barrister of the Inner Temple, and at his council board there sat others also educated here. But, my lord, wherever the English tongue has gone, for those that

speak it the English law has gone also. It has followed them because it must; by right of its fitness for free men; because of its power of adaptation to new environments; because it is capable of growth as the world grows; because it is a system of principles rather than of rules, and of rules only as they speak for principles. Daniel Webster once spoke of the morning drum-beat by which the English garrisons around the globe were ready in every land to salute the sun at his coming. But it may be even England's higher pride that wherever her people go, her law follows. We all, my lord, who are met here, or almost all, are ministers and officers of this one system of Common Law and of the Courts which sit to administer it. Some of our States cling more closely than England has done to its ancient forms; but in loving devotion to all that makes it what it really is, Americans and Englishmen are at one, standing as it were, here, under the same flag; not the flag of a country, but of a country's laws, the flag of the Common Law of England. And, gentlemen, that flag is one that wherever it floats casts no shadow of injustice, and floats only over the free.

**The Hon. James M. Beck** responded in the following terms:—My Lord Chancellor, your Excellency, my Lords and Gentlemen, permit me in the first place to express my most grateful acknowledgment of the distinguished honour you have been pleased to do me in calling upon me to respond to this toast of the American Bar, although I may be permitted to add how passing strange it is that one of the youngest of the "ninety thousand" should be thus called upon. Indeed I experienced a feeling of depression when I recall that there are other guests here to-night, who, by reason of greater years and added honours, could, with more propriety speak for the American Bar, and I feel very much in the position of a negro defendant, who was once prosecuted in the United States Courts for violation of the Internal Revenue Laws of the Government. A very strong case had been proved against him, and his Counsel rather despairingly turned to him and said: "Do you want in the face of this testimony to take the witness stand and testify in your own behalf?"

to which he replied, with that love of sounding phrases which is the characteristic of his race, "I think I had better remain neutral." And so, in the presence of these members of the American Bar, who, for the reasons I have named, could respond to the toast with so much greater propriety, I feel like taking counsel of my diffidence and finding refuge in the modesty of silence. And yet, I would then deny myself the very great privilege of expressing on behalf of the Attorney General of the United States, whom I have the honour to represent this evening, his regret that official engagements have prevented his leaving Washington and being present to-night. I greatly regret that he is not here to respond for that Bar, of which he is the official and honoured head, and in his absence I can only trespass upon your patience for a little while, asking you to bear with me in the same gracious spirit with which the young Prince of Denmark bade Polonius welcome the players to Elsinore, when he said: "Use them after your own honour and dignity; the less their deserving the more merit is in your bounty." My brethren of the American Bar are deeply sensible of the great honour you have done them by this dinner. As has been said, while comparatively few of our number are privileged to be present here to-night, this dinner will go forth as a message of goodwill from the Atlantic to the Pacific, and throughout that vast dominion there will be but one expression, and that of absolute, and sincere reciprocity for your knightly courtesy. To those of us, who are privileged to be here to-night and personally to share your gracious hospitality, let me assure you, it will be a dear and beloved memory for ever. Between the Bar of England and that of America there is a peculiar and indissoluble tie. I will not say that the American Bar sprang from the brain of the English Bar, like Minerva from the brain of Jove, because it grew by an evolution much more orderly and slow, but I will say that our earliest colonial lawyers came to London, studied within the time-honoured precincts of the Temple, took with them the traditions and learning of the English Bar to America, and thus made possible that American Bar, which is in full sympathy with you to-night. Nay, more, there is not an American lawyer who has not sat in spirit—as Saul at

the feet of Gamaliel—at the feet of that great member of the Middle Temple, Sir William Blackstone, who is the real preceptor of every American lawyer. Your great jurists, whose name is legion, are familiar names to the members of our Profession, and their decisions are a lamp to our feet and a light to our path. Their books of Report lie side by side with ours upon our shelves and are daily cited in the Courts of the United States, always with respect and admiration, and generally with approval. You will pardon me for suggesting that we sometimes disapprove, because that is the sad fact; but, be that as it may, we refer to them to interpret the same Common Law; we invoke in some instances the same statutes, and we appeal to the same principles of constitutional liberty. Of course, there are some minor differences between your Bar and ours. Our judges do not wear wigs and our lawyers do not wear gowns; but they are not necessarily inferior in probity and learning, because they have not the solemn ceremonial of justice, with which you fittingly surround its administration. The levelling tendency of democracies may have somewhat narrowed the gap between the Bench and the Bar; there is at times a freedom of discussion unknown here. A young American lawyer, who was arguing in a Court of Appeal, commenced by citing about a dozen authorities in support of some very elementary proposition. Finally, the Chief Justice wearily said: “You need not cite any more authorities; you may safely assume that the Court knows something.” Whereupon the young barrister replied: “But if your Honour will permit me to proceed, I should like to do so in my own way. The assumption that the Court *knew* something is the mistake I made in the Court below.” It is not narrated whether he shared the fate of another young American barrister. He was called upon to try a case upon Good Friday, which was a legal holiday in his State, and tried very hard to get the case adjourned. But the Judge was obdurate, so he reminded him that the first Judge who sat on a Good Friday was Pontius Pilate. The Judge fined him for contempt, whereupon the young barrister suggested that as it was a legal holiday in the State of Texas, he could not be in contempt of a Court, which was not legally in session. At this

the Judge promptly remarked: "I will have you know, Sir, that, for the purpose of being in contempt this Court is always in session." Perhaps I should add that these instances of the independence of the young American barrister are pure fiction, because they are imaginary—quite as imaginary as the story Sir Frank Lockwood told us at Saratoga some years ago as to a choice of alibis. Some who heard him believed the story to be true and marvelled at the ethics of the English profession; but it turned out to be only one of Sir Frank's jokes. I only mention this because in the course of my remarks, if I offend the proprieties of the occasion, I may at least say, with that very famous London clerk whom we all know in America, Mr. Guppy, that my statements are made as his declaration of marriage, strictly "without prejudice." Inasmuch as the chief object of all government is the administration of justice between man and man, I find in the oneness of the law which is administered under the Union Jack and that administered under the Stars and Stripes the substantial unity of the two great divisions of the English-speaking race. To preserve this unity, no formal treaty of alliance is necessary, as both nations are too great and dominant in the affairs of men to permit any Siamese-twin-like ligature, which would cramp the growth of either or confine its liberty of action. While there is no organic political unity, yet after all its importance in the affairs of men has been greatly overestimated. There is an empire of the mind, too subtle to be expressed in words, and too infinite in its influence to be circumscribed or confined by written constitutions or paper treaties. Such was Christianity, that in two thousand years "lifted the gates of empires off their hinges and turned the stream of centuries into a new channel." And such, it seems to me, is the empire of the English speaking race, by which I mean the collective force as a factor in civilization of the law, literature, customs and achievements of that mighty race, whose mother tongue is the glorious English language. It is in that sense, I think, that we can apply the words of Tennyson, although written by him in a different meaning, to both countries.

" That which we are, we are.

One equal temper of heroic hearts. . . . Strong in will  
To strive, to seek, to find, and not to yield."

It has been sometimes said that England is the mother of America, and in a restricted sense the analogy is true. We of America are sprung from the teeming womb of England, and I feel that of none of your mighty children are you more proud to-night than of this sturdy, young, and lusty giant of the West, who is now forging at the flaming forge of war the sceptre of world power. But while in that sense you are the mother country yet the modern British Empire and the American Republic were the offspring of that seven years war, which gave Frederick to Prussia and made possible the modern German empire; which gave to England the towering genius of Pitt and the daring of Clive and Wolfe, that Wolfe, whose immortal climb to the heights of Abraham saved the northern part of the American continent to the rule of the English-speaking race. The same epoch-making war gave to England the empire of India, over which by a happy coincidence there reign to-night as the representative of your noble Queen, a valiant son of England and a fair daughter of America. The same war gave America its two great men, Washington and Franklin, who, even at that time, were suggesting a union of the colonies and thus laying the foundations of the future Republic. This great Empire and this great Republic, cannot, by reason of this indissoluble tie of a common law, but have common interests and therefore a common friendship. Let us take an inspiring example from that incident in the harbour of Apia nearly ten years ago, when a cyclonic storm drove the fleets of Her Majesty and of the American Republic into that awful harbour, and upon the jagged rocks of that treacherous coast. It is narrated that as the American flagship, the *Trenton*, slowly drifting to the rocks and powerless to stem the flood, passed Her Majesty's ship, the *Calliope*, which, with the greater power of her engines was, inch by inch, fighting her way in the face of the tempest to the outer sea and to safety, that the sailors of the *Trenton* gave a gallant and a dying cheer for their comrades on the *Calliope*. Let the people of each

country have the fraternal spirit of those humble sailors. Let each nation but co-operate in all that may advance civilisation, and it will surely come true, not in the mere vulgar common sense of political domination, but in the larger sense of moral influence, that, to quote the words of your own poet, "they shall be lords of an empire, wide as Shakespeare's soul, sublime as Milton's immemorial speech, rich as Chaucer's theme, rare as Shakespeare's dream."

The toast of "**Our Other Guests**" was then proposed by

**Lord Alverstone**, Master of the Rolls, as follows:—My Lord Chancellor, your Excellency, my Lords and Gentlemen, after the splendid speeches to which we have listened with so much pleasure this evening, it will not be possible for me to detain you except for a very few minutes. But I desire to remind you that this banquet which is in itself quite unique was planned in order that we might give a hearty welcome to the distinguished members of the Bench and Bar of the United States who happen to be over here on their way to other parts of Europe. And in order that we might give these distinguished men a fitting welcome we have taken the opportunity and have enjoyed the privilege of inviting to join in our welcome other distinguished men who represent Her Majesty the Queen and the British Empire in different parts of the world. And I feel that you, and especially you from America, would agree with me that we should not allow the evening to close without giving them also a welcome and giving them a share of that greeting which we have extended to the Bench and Bar of America. The learned Judge and the Attorney-General who have addressed you on behalf of the American Bench and the Bar, have enlogised the part played by the Common Law of England and have eloquently pointed out what a link it forms between the professions of the two countries. That Common Law is being administered with, of course, variations due to the particular country and the situation of particular cities in every part of the globe by the representatives of the British Crown. And to-night we have representatives from practically every part of the United Kingdom and many of the great dependencies of

the Crown to join in doing honour to our principal guests. Judges from the Court of Sessions of Scotland, judges from Ireland, judges from India, from Australia, from the Cape, and from Canada and other Colonies are here as our guests, joining with us to-night, many of them, as you know of course, trained in the school to which the Attorney-General has referred, many of them students and barristers of this Inn who, being in England, are glad to be able to join in this splendid gathering and in the greeting the Bench and Bar of England have given to the United States. It has been my privilege to be closely associated with many distinguished members of the American Bar, probably except the Lord Chief Justice, whose absence we so much deplore to-night, there is no one who has had more intimate connection with distinguished barristers from the United States. And I desire to bear my testimony to the fact how thoroughly they appreciate not only the principles of law we respect, but the traditions of the great Profession in which we have been brought up. I am sure these distinguished guests, whose health I am now proposing, also carry with them to the parts of the world to which they will return the love of these principles and the desire that the justice represented by the British Crown shall be brought home to all who come under their jurisdiction. There are many in this Hall who would feel it a great honour to return thanks for the guests whose health I am proposing. You will have the opportunity, I am glad to say, of hearing my distinguished friend, the Lord Chief Justice of Ireland, and I wish there was the time to make a selection of three or four among the distinguished judges who represent Her Majesty in various parts of the world. But I have the privilege of coupling with this toast the name of one whose career is certainly unique and who embodies in more ways than one many of those distinguished characteristics which have formed the subject of much of the speeches we have heard to-night. I refer to the Hon. Edward Blake, of Canada, now a Member of Parliament for Longford. You in the United States know Mr. Blake's career as well as I, but I should like, as I am permitted to couple his name with the toast, to make two or three observations about him. You know that he was in Canada

not only a great lawyer but also a very distinguished member of the Legislature. There are many sitting around these tables who have had the privilege of being opposed to him and of being led by him at the Bar of the Privy Council. I can speak from personal experience of the admiration with which we have listened to Mr. Blake's arguments in many important appeals. And in the House of Commons, though probably Mr. Blake and I differed upon almost every political question which was there discussed—I doubt whether we have ever voted in the same lobby—I can honestly say I have heard more than one speech from Mr. Blake which has struck me by its power, its fairness, its eloquence and ability. And, therefore, my Lords and Gentlemen, I feel that "The Other Guests" whom we are proud to welcome to-night, and who joined with us in the warmth of our welcome to the brethren of the United States, will not be unwilling that their case shall be represented by so distinguished a man as Mr. Blake. My Lords and Gentlemen, I give you the toast of "The Other Guests of the Evening" coupled with the name of Mr. Blake.

The toast having been duly honoured,

**The Hon. Edward Blake, Q.C., M.P.,** responded as follows:—My Lord Chancellor, your Excellency, my Lords and Gentlemen, I fear I accepted the discharge of this duty very lightly; but I feel much more embarrassed after the far too kind words which Lord Alverstone has spoken. I do feel, and I am sure I speak for those distinguished judges and members of the Bar in various parts of Her Majesty's dominions, from Scotland, from Ireland and from various outlying parts—I am sure I express their sentiments when I say that it was with great satisfaction that we found ourselves permitted to participate in this wonderful demonstration, and to show our sympathy with these our brethren of the law, speaking our own tongue and practising the same general principles of the English Common Law as has been so frequently mentioned. But for us, the other guests, we must not forget that there are some exceptions, and some marked exceptions over the wide dominions of Her Majesty, to the rule of the English

Common Law. Scotland, Quebec, India, with her 270,000, and other British countries do not recognize that as the foundation of their jurisprudence. And, therefore, though it is my own lot to live, when I am at home, in a province which does recognize the English Common Law as its fundamental rule, I should, even less adequately than I can hope, express as the spokesman in response to this toast what we owe to your kindness if I did not say that, whatever may be the system under which we live, we of the Bench and of the Bar are animated by one motive, honestly to interpret and administer that law, and to secure, so far as it may allow, that it works towards the elements of justice. It is the pride and boast of English speaking communities and of those communities speaking other tongues which fly the flag of England and the flag of the United States that there is after all one common sovereign, that the reign of law is the rule in those lands. Let me say that in several of the political communities which fly the British flag, as in the United States, we of the Bench and of the Bar have one function still higher, still more important to discharge than that which can be achieved by members of the English Bench and Bar. Because where there are written constitutions which deal with federated states and divided powers, some most important political interests of the people at large involving the powers of their Parliaments and the validity of their legislation, fall to be disposed of by the Courts of the land. And thus they become questions of jurisprudence of the greatest possible interest and importance in those lands, while necessarily in a country of unified political power and written constitution they remain in the disposal of the political department of the Government alone. We have in the Dominion of Canada one great example, as we have in that country which possesses more than half of the Continent, in the United States, far the greatest example of the establishment of the federal system. And in the past few days there has been passed through the Legislature of this country a similar Act imparting similar powers to the Bench and Bar of the Australian Continent. I have heard with great pleasure of the strength and power in numbers and learning of the Bench and Bar of the United States. And that country is

indeed to be congratulated when it can boast of an enrolment of 90,000 members of the Bar. But I am bound to remind our friends who have made this boast that things were at a still higher pitch with reference to the knowledge of the law before the American Revolution, before America was separated from England. Edmund Burke, in one of his greatest speeches, in one of those great speeches when his voice was said to be a dinner-bell, but has gone on resounding through the ages since, which were said to be delivered still-born, but which live to-day in immortal vigour—Edmund Burke, speaking before the Revolution, words of wisdom, good to be pondered on to-day, as to conciliation, said this about the law in the colonies, “In no country, perhaps, in the world is the law so general a study. The profession itself is numerous and powerful; and in most provinces it takes the lead. The greater number of deputies sent to the Congress (that was the Revolution Congress) were lawyers. But all who read, and most do read, endeavoured to obtain some smattering in that science. I have been told by an eminent bookseller, that in no branch of his business, after tracts of popular devotion, were so many books as those on the law exported to the plantations. I hear that they have sold nearly as many of Blackstone’s Commentaries in America as in England. General Gage marks out this disposition very particularly in a letter on your table. He states that all the people in his government are lawyers, or smatterers in law; and that in Boston they have been enabled, by successful chicane, wholly to evade many parts of one of your capital penal constitutions.” So, after all, perhaps it was not to the embattled farmers on Bunker’s Hill, but to Blackstone and the lawyers that you owe the Revolution! Well, my Lord Chancellor, the place to which I would like to take our friends of the United States Bench and Bar is a quiet little room in Downing Street, rather dingy, with no pretence about it, where they would see sometimes six or seven, sometimes four or five gentlemen, without wigs, without gowns, dressed in morning apparel, not sitting under the names of judges but hearing the prosy arguments of various members of the Imperial Bars and dealing with questions arising under the laws of very nearly seventy distinct

political communities, each flying the British flag, and about seventeen other political entities outside the range of the British flag, in Europe, in Africa, in Asia, in America, in Australasia; and including in their systems various laws, law from the ancient customs of France, the old customs of the Monarchy, the Civil law, the Roman-Dutch law, the Brahminical laws, the laws of the Mahommedans. All these questions are disposed of on final appeal in this little dingy room in one way or another, sometimes not so much as at other times, I daresay, to the satisfaction of the litigants, but on the whole, despite some adverse criticism and some defects, to the satisfaction of those natives of these various regions who enjoy the opportunity of so trying their cases. I know no greater, no more practical, no more significant proof of the vitality of the British Empire than is to be found in that dingy room, by the disposition there of these various cases, in which barristers from any part of Her Majesty's dominions may plead. Talking about costume, as we have done to-night, I was once approached by a barrister of my country and told "We are expecting you to stand up for our rights. We want the Privy Council to allow us to appear as barristers, wigless, as we do at home." "Friend," I said, "this is a large question. Remember we are dealing with lawyers all over the world. It may be that in some warm and remote islands the costume may be a loin cloth. What are we to do with that?" As to the wig which has been discussed to-night I am glad to see that times are a little changed. I was glad to see some of the judges, mere puisnes, too, had during the hot weather discarded the wig. But I remember very well the case of a former Lord Chancellor, who used to live on very intimate terms with his Sovereign. I am speaking of the great Lord Eldon. The monarch used to ask him to partake of his favourite dish, liver and bacon. But even Lord Eldon's appeal to the Crown to be allowed in hot weather to administer justice without a full bottomed wig was positively and peremptorily declined, on the score that it would be a dangerous blow to the Constitution. My Lord Chancellor, times and manners are altered since; and one can hardly conceive either of the two events I have referred to as occurring to-day. My Lords

and Gentlemen, I shall detain you no longer than to repeat for myself and my colleagues our hearty thanks to the Bench and Bar of England for giving us the opportunity of participating in this unique occasion.

The next toast was that of "**The Bench and Bar of England**," proposed by

**Mr. Francis Rawle**, Treasurer of the American Bar Association, in the following words:—My Lord Chancellor, your Excellency, my Lords and Gentlemen, I have the very great honour of proposing to you the health of the Bench and Bar of England. This honour has been conferred upon me—I may be permitted to say, upon very brief notice—as a representative of the American Bar Association; on its behalf I wish to express to you a most cordial and hearty acknowledgment. The American Bar Association is not large, when one compares it with the great body of American lawyers. The Bar of the United States probably contains a hundred thousand lawyers; the Bar Association has hardly more than fifteen hundred members, but it has gained a position of great influence. I think it will interest you to hear something of its life and work. It was organized twenty-two years ago. The founder was the learned Justice of the Supreme Court of Errors of Connecticut, Mr. Justice Baldwin, who is one of your guests this evening. He projected it upon wise lines and was ably seconded by the Bar throughout the country. The Bar in our country possesses great influence in every community. Its members are found in every official walk of life. For many years I believe that the greater part of the Senate of the United States have been lawyers, and so has a like proportion of the members of the National House of Representatives. Many of our Presidents have been lawyers; more than one of them have reached high eminence at the Bar. The various state legislatures are largely composed of the same material. When the Bar Association was founded, we had this vast body of men, influential in every community throughout the country, but only as individuals; they had no organized power. It was the object of the

Association to unite them for the purpose of "advancing the science of jurisprudence," for improving the laws and securing uniformity of laws throughout the states. You may wish to know what has been accomplished. The difficulty which confronts us is that we live under the laws of many different states. The National Congress is not omnipotent as your Parliament is ; it has its distinct and somewhat narrow constitutional limitations ; under our system of home rule, the laws which most affect and regulate the daily affairs of life are state laws. If we wish such a law as your Negotiable Instruments Act, we must secure its enactment in nearly fifty different state legislatures. If we seek to bring the law on any subject up to a higher standard of intelligence, or more nearly in touch with modern requirements, we must act through the legislatures of nearly fifty different states. The task is difficult, but much has been accomplished : more remains, but we are hopeful of the future. Legislation Commissions on Uniform State Laws have been created in about twenty of the leading states. They meet in Conference every year with the annual meeting of the Bar Association. They have aroused some popular interest in uniformity of laws ; they have secured the passage of a Negotiable Instruments Act in a number of states ; and are now earnestly engaged in the most needed of all reforms—uniformity of divorce law and practice throughout the union, upon a higher moral and social basis. There are some important subjects upon which we are able to act more directly ; one of them is legal education. We believe that the standard of legal education with us is now high in many, indeed in most, of our law schools, and I feel sure that I may safely say that the Association has done much to create and maintain this standard. It has done much and it will do more, and that not only in bettering education, but in securing higher requirements on the part of the Courts for admission to the Bar, and a more rigid enforcement of the existing requirements. We have perhaps eighty schools of law, some of them independent schools ; more of them, and perhaps the best, are part of our greater Universities and Colleges. In these schools the vast majority of our students at law are taught ; the study of the law in the office of practising

lawyers is almost a thing of the past. A few of the schools have courses of study of hardly more than a year, but many have thorough courses of three years, and the work of the Association is best expressed in the fact that the three years course has, within ten years, been largely adopted and becomes a standard below which we hope no school will, in ten years more, venture to fall. I could mention other subjects—the reconstruction of our Federal Judiciary which had out-grown the great Judiciary Act of 1789; the reform of the Patent Law; but these are enough to convey some idea of the work to be done and the success so far attained. Perhaps more than all this is the fact that we have brought together the American lawyers from the north and the south, the east and the west, so that they may know each other, and co-operate in all things which make for the public good. If it be said that to write a legal treatise is a debt which every lawyer owes to his profession, it must be true that the improvement of the laws is a higher debt which he owes to the community in which his lot is cast. But let me turn to a most congenial theme, the English Bench. The eloquent Assistant Attorney General of the United States has told you in what esteem it is, and has ever been held by us. The thought was known to you, but it is pleasant to us to repeat it, and to dwell upon it in this presence. The decisions of your great judges are read and considered by us with profound respect; their lives and labours, their earlier careers at the Bar as well as their judicial labours, are as intimately known to us as those of our own great judicial magistrates. We couple the names of Mansfield, Eldon, Stowell, Parke, and Jessel, with those of Marshall, Kent, Story, Curtis, Shaw, and Gibson. Fortunate it is in England that the Bench has always been the natural ambition of the successful lawyer. With us it is different in most cases. The most eminent lawyers in the United States do not, ordinarily, look forward to this rounding out of their careers, nor seek it. Your great forensic advocates, Erskine, Brougham, Scarlett, Cockburn, Coleridge, Russell, have afterwards become equally eminent judges, while of the great ornaments of our Bar, Pinckney, Wirt, Webster, Binney, the elder Choate, Carter, and the younger

Choate, none have filled any judicial office, and but one or two have been called upon, for any length of time, to render public service. But if it be true that in America the lawyer who is ready to retire with honour from the forensic arena, does not usually fill a public office, still there is some compensation and a gain to the community in which he lives. His training has made him a most valuable citizen in private station, and it has been well said that in every community the leading citizen is the leading lawyer. Standing in this place, the ancient Hall of the Middle Temple, I see around me on these mural tablets great historic names—Blackstone, Coleridge, James, Lindley, Hawkins—and I see the name of Henry Sumner Maine, whose great work marked an epoch in the study of the law, and of Phillimore, a name equally eminent in two great departments of legal literature, and I feel that I too have some share in the sacred traditions of this Inn. Looking to-day at its Records, I find that on the 17th of August, 1781, my grandfather, William Rawle, “the son of Francis Rawle of Philadelphia,” and a descendant in the fourth generation of Francis Rawle, an emigrant from the mother country, was entered as a student in this Inn, and looking at the books on the shelves of your Middle Temple library, I see the evidence that he paid his debt to the Inn, and to his profession. I find there his own Commentary on the Constitution of the United States—the first authoritative treatise on that great subject—I find, too, twenty-five volumes of his son’s reports of the Judgments of the Supreme Court of Pennsylvania, and his grandson’s work on the Law of Covenants for Title, and, may I venture to mention also, my own less worthy contribution to the literature of our great profession. Close as have always been the relations of our Bar with yours, they have, since 1883, grown yet closer. In that year Lord Coleridge made his ever to be remembered visit to our shores. All who had the good fortune to meet him there, and they were many, were charmed by his cordiality, his eloquence and his delightful humour. He left with us a rare memory. The year 1896 brought the historic event of Lord Russell’s visit, when he delivered before the American Bar Association his great address on International Arbitration.

Those were fortunate who heard him. Wise, thoughtful and conservative, it pointed out in most eloquent words of power the lines along which lies the best hope of the peace of the world, and yet marked equally the limitations which are necessarily set to International Arbitration by man's nature and the due self-respect of nations. Four thousand persons heard it with eager attention, and millions of copies of it went to every corner of the Union, to be read of all men. And my mind cannot revert to those days without a tender and loving thought of Sir Frank Lockwood, whose too early death in the prime of life was almost as deeply felt by us as it was even by you. As these thoughts crowd upon my mind, I cannot better say to you, what is in my heart to say, than by putting it in the words of your Lord Chief Justice whose absence to-night is to me, and I am sure to all, the sole cause of regret in this great gathering of the judges and lawyers of our two countries. "We speak the same language; we administer laws based on the same juridical conceptions; we are co-heirs in the rich traditions of political freedom long established, and we enjoy in common literature, the noblest and the purest the world has known—an accumulated store of centuries to which you, on your part, have made generous contribution. Beyond this, the unseen 'crimson thread' of kinship, stretching from the Mother Islands to your great Continent, unites us and reminds us always that we belong to the same, though a mixed, racial family." My Lords and Gentlemen, on behalf of the American Bench and Bar, and asking your distinguished guests from the Imperial Colonies to join with me, I give you the toast of "The Bench and Bar of England."

The toast being duly honoured,

**Lord Justice A. L. Smith** responded in the following terms:—"My Lord Chancellor, your Excellency, my Lords and Gentlemen, it would be sheer pedantry on my part if I were to pretend that I did not appreciate the honour which is conferred upon me in being called upon to return thanks for the Bench of England. No one can be placed in the position in which I now am without having some feelings of pride. But, gentlemen, when

I look the point straight in the face, when I ask myself how ~~is it~~ I am put in the position I am, I find there is one answer, and that is that I am placed where I am by reason of the occurrence of two untoward events. The first is the event, untoward to you and to the Lord Chief Justice of England, because if he had been well this evening he would have been now returning thanks for the Bench of England. The other untoward event is an event personal to myself, and it is untoward; and it is that at the present time I am the senior judge within the Hall of the Middle Temple. Well, now, on behalf of the Bench of England I wish to say this to you gentlemen from the other side of the Atlantic in the shortest possible phraseology. We welcome you from America to the shores of old England, and we hope that during your sojourn here you will have that hospitality and friendship bestowed upon you that when you go back to your hearths and your homes you will be able to speak with pleasure of the manner in which you have been treated by the denizens of old England. I knew, gentlemen, when I came here to-night I should not be standing on the coign of vantage which my old friend Lord Alverstone, the Master of the Rolls, stands upon. He has told us he knows more great American lawyers than any other man in England. Now, although I have not that privilege, I can say this, I never knew one of them—not one of them—when I entered this Hall, but I did know right well I should meet distinguished men, men who all their lives have been trying to do what we on the Bench of England have also been trying to do, that is to find out, if we could, where the truth lay between the contending parties before us, and, having found the truth, to apply as best we could the law applicable to the facts as we found them. I knew I should meet men who had been doing that all their lives, the same as I and the judges of England have been all our legal lives, at any rate, since I have been on the Bench, whatever I did when at the Bar. Well, in meeting these men I have not been in any shape or way deceived. I have found the same men, the same manners, the same customs. But I want to say one word more, and that is the last word I am going to say, and I say it in consequence of something which fell from the

Hon. Mr. Beck in that admirable speech which he made to us on behalf of the Attorney-General of America. I now understand why it is we do not always get all that assistance from the American Reports which we think we shall get when we look into them on commercial matters, for I find that he reads in a very superficial way our great judgments. He puts our judgments aside, or rather the Bench of America do. When we look to their judgments to find something which is to be of great advantage and assistance to us we very often do not find what we look for. I hope therefore, that after this dinner Mr. Beck will tell the learned judges in America that if they read our judgments with more care their judgments will be of greater assistance to us on a future occasion. Gentlemen, on behalf of the Bench of England, I thank you.

**Sir Robert Finlay**, Attorney-General, in response spoke as follows:—My Lord Chancellor, your Excellency, my Lords and Gentlemen, this old Hall carries with it many memories; but when I rise to respond on behalf of the Bar of England, there is one memory to which my mind naturally recurs, and that is of the occasion on which the Bar of England met to celebrate their fraternity with the Bar of France in this old Hall at the Berryer banquet now nearly forty years ago. In this Hall the Bar of England were met to entertain the most distinguished representatives of the French Bar. It was on that occasion that perhaps the most eloquent description of the duties of the Bar that was ever given proceeded from the lips of the greatest master of eloquence that the Bar of England has ever produced, Sir Alexander Cockburn, when he said that the barrister wielded the sword of the warrior, not the dagger of the assassin, and that considerations of honour ought ever to prevail in the warfare of the Bar. Nearly forty years have passed and we are met on a still more genial occasion to welcome the Bench and Bar of the United States of America. Mr. Blake has referred to the popularity of the study of Blackstone in the United States. About 130 years ago, shortly before the outbreak of the War which is tinged with some painful memories, although it has resulted in all that is good, a predecessor in the office which I now have the honour to

hold said that while the study of law was nowhere prosecuted more successfully than in America, they seemed in particular to have thoroughly studied the law of high treason, for though nearly every American had come within a hair's breadth of it, yet not one had overstepped the limit. The war which followed, painful as were some of its incidents, has resulted in nothing but good for the great English speaking race throughout the world. What a distance have we travelled and happily travelled since then! But in replying for the Bar of England I cannot help remembering that perhaps the brightest example of devotion to duty on the part of the Bar may be drawn from very nearly that time in America to which I have already alluded, when what was called, I think, the massacre of Boston took place, in which some members of the crowd that had attacked the English soldiers were shot down in the streets. When the prosecution took place it was to the leaders of the popular party at Boston that the English officer and the English soldiers who were put on trial for their lives turned to defend them. It was John Adams and Josiah Quincy who undertook that task. They were sensible of what they owed to their Profession, and while they were regarded by their fellow citizens as the representatives of all that they most highly valued in the defence of popular rights, as members of the Bar they undertook the task of the defence of those who were exposed to a torrent of popular prejudice at the time, and most nobly did they discharge their task. I venture to think that that trial, characterised as it was by the impartiality of the Bench, the courage of the Bar, the independence of the jury, and the acquittal that ensued forms one of the brightest episodes in the history of the Anglo-Saxon race, for it illustrates that passionate devotion to justice and to fair play which marked all our contests as they characterise our history. On behalf of the Bar of England, which feels itself one with the Bar of the United States, I return my thanks for the toast which has been proposed.

The toast of "**The Chairman**" was then proposed by

**Lord O'Brien of Killenora**, Lord Chief Justice of Ireland, as follows:—My Lord Chancellor, your Excellency, my

Lords and Gentlemen, I ask permission to avail myself of a very pleasing privilege that has been conferred upon me, the privilege of proposing the toast of the health of our Chairman of this evening, the Lord Chancellor. It is a very great pleasure to me to propose the toast of the Lord Chancellor. Lord Halsbury has always identified himself most closely, I understand, with everything that interested the Bench and Bar of this country, and I am quite certain that on no occasion was he more in sympathetic unison with the Bench and Bar than on this memorable occasion—I would say, this most auspicious occasion. I would ask to be permitted—I hope that you will not consider it intrusive—to say one word of welcome as an Irishman and an Irish Judge—to say one word of welcome, of hearty welcome, to the Bench and Bar of that great country to which the Irish race owe so much. But to return to my most pleasing duty, I think that everyone here, that every person, every member of this distinguished company, wishes my Lord Chancellor very many happy years of health and prolonged life, and a long enjoyment of that prominent distinction which he so worthily gained in the administration of justice and in the service of his country. My Lords and Gentlemen, I have great pleasure in proposing the toast of the Lord Chancellor.

**The Hon. Chauncey M. Depew:** My Lord Chancellor, your Excellency, my Lords and Gentlemen, I am not here with the expectation of making a speech, but I cannot let the evening close after the command of his Excellency, the American Ambassador, without cordially seconding the sentiment which has just been proposed to the presiding officer of the evening. I was especially interested in what Lord Justice Smith said in reference to American lawyers, that he had never met any of us. It occurred to me that possibly he might feel, as Daniel Webster did once when he had been Secretary of State, Foreign Minister as you call it, and was therefore absent for several years from his accustomed place in the Snpreme Court of the United States. He said before commencing his argument when he again appeared before the Court,

"I have treated your Honours with absolute impartiality as a United States Senator, because everyone of you during my term in the Senate came before the Senate for confirmation, and I voted against everyone of you." My own relations with the Bench of England and the Bar of England have been with the judges and lawyers who have visited our country, and with none have they been more pleasant than with the distinguished Master of the Rolls who sits beside me to-night. I had the pleasure of travelling for two days in the personally conducted journey which marked Lord Coleridge's triumphant march through the United States, where he captured the American people by that felicity of speech and charm of manner which were his great distinction. I remember riding once with him through Connecticut, which is called Con-nec-ti-cut here to-night—our American Indian names get mixed up in England, and we pronounce it as if spelled Couneticut. When the great Lambeth Palace conference was held and the Bishop of Michigan was here—and the Bishops have a way of addressing each other as York, Gloucester, and whatever may be the title of the See—it is said that one of the Bishops greeted the Bishop of Michigan with: "How are you this morning, my chicken?"—that being his view of the pronunciation of Michigan—to which the astonished American Bishop airily responded, "All right, my rooster." Lord Coleridge asked: "Where are the villages in your country to which barristers who, having passed sixty years of age, retire and live on an income of 2,000 dollars or more a year? We have plenty of such places in England." I said: "There is not a lawyer of that kind in the United States." No lawyer ever dies if he can help it, and never retires anyhow. Sometimes he takes an excursion into diplomacy as brother Choate has done, but he is sure to come back to the Bar. Sometimes he takes an excursion into politics as did General Harrison, when he became President of the United States, but when he retires from office he becomes a barrister again. So long as there is a fee possible no American lawyer ever ceases to practise, and he is easily tempted from retirement. I remember visiting a friend in the South at one time, and an old darkie, who had been a slave on the plantation

and was rheumatic and of no further use, came along. The proprietor of the plantation said: "Well, Uncle Ben, how is it with you?" "Very bad," was the answer, "I'se covered with rheumatism, I'se ready to die, wanter go through the pearly gate, it'll be welcome." "Well," said my friend, "go into the kitchen and get taken care of." About two hours after Ben was sitting on a bench singing familiar songs. "What's the matter?" said my friend. "Oh," he said, "I've eaten a ham and drunk a bottle of whiskey and am happy." "How about the pearly gates?" "Well," said Uncle Ben, "dat excursion am postponed." Allusion has been made to-night very frequently to the fact that there are 90,000 lawyers in the United States, and to that statistical information brother Rawle has added 10,000 more. There are, it is true, but they do not all practise law. A lawyer in the United States frequently goes into business of some kind. He goes in for railways or other corporations, the management of small affairs or great which take him out of the active practice of the law. But he is still a lawyer. He runs railroads, he runs great business corporations or anything that may devolve upon him upon the principles he has learned in the law school, and in practice in the Court. The lawyer comes up on every occasion. I am a lawyer myself, yet I have been president of a railroad company and am now connected with several great railroad companies as chairman. But on every question which comes before me, I look at it first from the lawyer's standpoint and then from that of the chairman's. Stories come well at this late hour, and here is one which illustrates that early training follows us through all the changes in a career. I remember a student in college with me, before athletics became so well known, who had been stroke-oar of the boat crew and captain of the football team. He then became an evangelist, and one day while out in the wild regions of the western mountains he met a cowboy, who had been having a high old time. He had been painting the town red, and was one of the gentlemen who think it an honour to do that sort of thing and to die with his boots on with a record of several other gentlemen who have died at the end of his pistol. He came to the parson, and said: "You have no fun in you."

Then he knocked off the parson's hat and hit him first on ~~one~~ side of the head and then on the other. The old athletic spirit came up in the preacher, and the evangelist took hold of the cowboy and dusted the side-walk with him and mopped the roadway, and rubbed him up and down on the side of the saloon. When the ambulance was carrying the cowboy's remains to the hospital, a weak voice from within said: "Parson, you will convert all the boys in this town; you are so chock full of fun." It was in 1896 that the Bar Association of the State of New York, of which I am a member, made up their minds to celebrate an event which has a distinct connection with the relations between the United States and Great Britain. It was the centennial of the ratification of the first treaty which was made between the two countries, and, for the purpose of making that treaty General Washington selected the Chief Justice of the Supreme Court of the United States, John Jay. He came over here and met a very distinguished fair-minded, high-minded, broad-minded English statesman, the Earl of Shelburne, and they made a treaty of which the fundamental principle was that all disputes that should thereafter arise between Great Britain and the young republic of the United States should be settled by arbitration. That treaty remained practically a dead letter until it was revived in practical operation by the Geneva Arbitration, which prevented a war between Great Britain and the United States at the close of our Civil War. It served the same beneficent purpose in the Venezuelan Arbitration where my friend, the Master of the Rolls, who sits beside me, did such brilliant work. Of the twenty-one Presidents of the United States, seventeen have been lawyers: of our Cabinet Ministers four-fifths have been lawyers. The Constitution was made by lawyers, and the institutions of our Government have been built up by lawyers. In the formation of our Republic we created a power which has never existed in any country, that there should be a Court superior to the sovereignty. In every country since the dawn of history the sovereignty has been supreme. But the lawyers who so carefully and with such foresight created our Government had that confidence in the law that they vested in the Supreme Court of the United States the power to pass upon

the Acts of Congress, and the President. Their decisions nullify or modify the laws passed by Congress or the Acts of the Executive. Allusion has been made by Mr. Blake to the difference between a written Constitution and a non-written Constitution. It confirmed the general impression of the non-elasticity of written Constitutions. The Constitution of the United States has not been altered or amended in a hundred years, except as to the freedmen after the Civil War. It is the only written or unwritten Constitution among civilized nations which has this distinction. It is the only Charter of Government which in conception, spirit and execution is wholly the work of lawyers. Its general principles, as interpreted from time to time by the Supreme Court, have kept our country in touch with progress and development. They have been found elastic enough to meet all the requirements and necessities of the people of the United States, in their growth from four millions, when it was adopted, to eighty millions at the close of the nineteenth century, and for the acquisition and government of territories many times larger than our country was at the beginning of the Republic. If the lawyers of the English speaking race or the lawyers of all countries wish to find the greatest monument that exists of what lawyers can do, let them point to the United States of America. All that makes it the pride of its own citizens and gives it power in the world, makes it most progressive in its development, marvellous in its growth and at the same time conservative in its protection of property, of individual rights, and civil and religious liberty is due to the genius of the lawyers who framed its Constitution, and the Supreme Court, whose decisions apply the principles of that wonderful instrument to every requirement of modern life. Just one word more, and that has occurred to me from what has been said on the subject of the Common Law and its influence on the English-speaking race, and what is to prevent us from flying at each other's throats. When literary people meet together they say it is our common language and literature which promotes peace, but after all it is the lawyers more than anybody else who have provided the means by arbitration by which war shall be avoided, and disputes

settled. To-day our feelings are stirred, and our hearts are bleeding for the representatives of the various governments who may be dead or may be living, but we fear are dead in China. It speaks for the unity and peace of the world, and especially for the unity of the great English-speaking peoples, that for the punishment of the criminals, for the restoration of order, for the advantage of humanity and civilisation, and the rescue of our kindred, the English and American soldiers are marching side by side. When the world of Asia and Africa comes, as it will, under the domination of the great Powers, we will find that wherever there is the authority of the English-speaking people and their colonies, there is law, justice and liberty. That is the reason of the strength of Great Britain in her flag round the world, and the strength of the United States in the new mission upon which it has set out. What England has done for Egypt is a monument for men who carry law and liberty with them and cannot help it. What America has done for Cuba is a monument of the same thing. Two years ago Oklahoma was opened for emigration and in three days there were 20,000 people there who had never met before, the saloon was going, the murderer was there and the highwayman and the gambler. But in four days the people organised a government of their own. They appointed magistrates, a court, a mayor, and a local council, which were universally respected, though all voluntary. The heredity and education of English speaking peoples will do that when there is no power to enforce law and order except public opinion. The same thing has happened amongst Englishmen in the wilds of Australia, and in their mining camps. My friends, we your guests and those we represent feel the distinguished compliment paid to us by the hospitality and courtesy you have extended. Your Coleridge was popular with us; your great lawyer and great judge Russell made upon us a profound impression; and no visitor to our country has won hearts and left memories more kindly and more keen than that splendid lawyer, genial wit, and best of good fellows, Sir Frank Lockwood. In seconding this toast to the Lord Chancellor, I want to say that whatever may be the sentiments, and they have been beautifully expressed by the

judge who proposed the toast, which are felt among his brethren here for his Lordship, they are reciprocated by the Bench and Bar of America. We know the present Lord Chancellor in the United States. We are familiar with his ability when he was at the Bar and since, and we recognise the honour which comes to our profession when a lawyer rises from the Bar to the Highest Court in his own land, and there so administers justice that he reflects credit not only on his own country but on the profession to which we all belong and of which we are all proud. And so it gives me great pleasure on behalf of the Americans here present and the Americans at home to second the health of our presiding officer.

The toast having been duly honoured,

**The Lord Chancellor** responded as follows:—Your Excellency, my Lords and Gentlemen, I am not going to make a speech. Indeed, if I were to attempt to follow my distinguished and eloquent friend in all the perfectly relevant topics which he has introduced, I am afraid that at this period of the evening I should exhaust your patience. I can only say we have all come together with one object, and I hope we have to some extent succeeded in convincing our friends across the Atlantic how much we appreciate and value their friendship. So far as I am concerned all I have to say is, I thank you.

The proceedings then terminated.







